



Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

DATE: June 15, 2007

I hereby certify that the enclosed documents for application Serial No.: 10/786,459, Entitled: Barrier Device for Fluid System Cover, are being deposited as "First Class Mail" on this date with the United States Postal Service in an envelope addressed to:

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Documents Enclosed Include:

1. Response to Interview Summary (5 pages);
2. Certificate of Mailing; and
3. Return postcard.

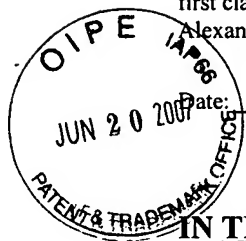
By:

Laura E. Hartman

Signature of person depositing above mentioned documents

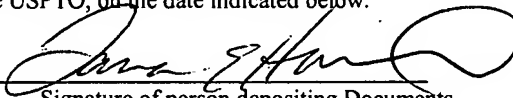
Certificate of Mailing or Transmission

I hereby certify that this document is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or being facsimile transmitted to the USPTO, on the date indicated below.



Date: June 15, 2007

By:


Signature of person depositing Documents--
Laura E. Hartman

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.	:	10/786,459	Confirmation No.	9338
Applicant	:	Wayne A. Lundeborg		
Filed	:	February 25, 2004		
TC/A.U.	:	3753		
Examiner	:	Craig James Price		
Docket No.	:	6079.102US		
Customer No.	:	N/A		

Mail Stop Amendment
Commissioner for Patents
P.O. Box 14560
Alexandria, VA 22313-1450

Applicant's Response to Interview Summary

Sir:

In response to the Interview Summary of May 16, 2007, undersigned respectfully submits that the interview summary in the paper mailed May 16, 2007, requires amplification by the undersigned, and requests clarification of what course the patent and trademark office intends to take in this application.

Events leading to the May 4, 2007 Interview

Prior to the May 4, 2007 phone conference with examiner Keasel that is set forth in the interview summary, undersigned had 3 phone discussions with examiner Price, on May 1st, 2nd and 3rd, all initiated by examiner Price.

May 1, phone conference. In the May 1 discussion, examiner Price started by asking if undersigned would approve deleting the phrase "utility system" from claim 29 by examiner's amendment. Undersigned was more interested in the examiner's position

regarding claims 31 and 32, and without responding to the examiner's request, asked as to the position of the examiner regarding claims 31 and 32. Examiner Price stated that claim 31 was directed to the non elected species, on account of the language referenced in the interview summary record. Undersigned stated that he believed claim 31 was generic, and then asked about claim 32, which is dependent on claim 31, and is clearly intended to read on the elected species. Examiner Price stated that because claim 31 was being held directed to the non elected species, that claim 32 was therefore considered directed to the non elected species. Undersigned stated his disagreement with that position, and offered to present language in claim 31 that would make that claim clearly generic (as intended), or if necessary to add language from claim 32 to claim 31 to make the claim clearly read on the elected species. Undersigned stated his belief that the subject matter of claims 31 and 32 was clearly patentably distinct from the cited references. Examiner Price first stated that he felt the Jacob patent, which had been relied upon in the initial office action, met claim 31, but when undersigned explained how the language of claim 31 and 32 was intended to clearly define over Jacob, it was undersigned's impression that examiner Price felt there was merit to the applicant's position, and said he would review the manner with his supervisor.

May 2, 2007 phone conference. Examiner Price called again on May 2, 2007. He restated the position that claim 31 was directed to a non elected species, that claim 32 was directed to the non elected species because it was dependent on claim 31, that the patent office would not entertain a revision of claim 31 along the lines suggested on May 1 by the undersigned (to make the claim clearly generic). When undersigned asked what the examiner proposed to do with the case, examiner Price stated that the patent and trademark office was going to cancel claims 31 and 32, and pass the case to issue. Undersigned said that would amount to making a holding that the claims were withdrawn as not directed to an elected species, and then simultaneously canceling those claims, without giving applicant an opportunity to challenge the holding, and that undersigned was not aware of the authority for doing that. Examiner Price said he would review the matter with his supervisor, and get back to the undersigned.

May 3, 2007 phone conference. Examiner Price called again on May 3, 2007.

He stated that after reviewing the matter with his supervisor, Examiner Keasel, they were maintaining their position that they could hold claims 31 and 32 as directed to a non elected species, simultaneously cancel the claims and issue the case. He also stated that they were not going to entertain any further discussion. Undersigned expressed his disappointment with that position.

May 4, 2007 phone conference with Examiner Keasel. On May 4, 2007, undersigned tried to call examiner Price, because undersigned believed he had never given approval for the revision to claim 29 that was requested by the examiner in the May 1, 2007 conference, and wanted to inquire as to how the patent and trademark office was prepared to handle that issue. Examiner's voice mail recording indicated that he was out of town that day, so undersigned called Examiner Keasel. Examiner Keasel repeated the position stated in the interview summary record, and undersigned summarized what he believed he had been told by Examiner Price, and asked for the authority that would enable the patent and trademark office to simultaneously hold claims directed to a non elected species as withdrawn and also cancel them, without issuing some sort of office action that would give the applicant a chance to challenge the holding. Examiner Keasel stated that a notice of allowance could be challenged by petition, and undersigned stated he thought applicant should at least be entitled to an office action such as a Quayle action that would give the applicant an opportunity to petition before a notice of allowance was issued, but examiner Keasel maintained his position. Then undersigned noted that he believed he had never given authority to amend claim 29 in the way first proposed by examiner Price, and explained that as soon as examiner Price made the proposal regarding claim 29, undersigned moved the discussion to claims 31 and 32, since they were more important to the applicant, so undersigned believed he had never responded (either way) to the examiner's proposal regarding claim 29. Examiner Keasel stated he had been advised by examiner Price that undersigned had agreed to the proposed amendment of claim 29, and undersigned restated then, and restates now, that he does not believe he ever responded to the examiner's request concerning claim 29. In addition, undersigned asked examiner Keasel to consider the following further point; in

determining whether claim 31 deserves to be acted on substantively: in the original response to the restriction requirement, applicant was required to identify those claims that read on the elected species. In its response, applicant stated its belief that original claims 1-9 were generic, and that 8 included language (boldfaced below) that is very close to the language upon which the examiners are now basing their holding that claim 31 is limited to the non elected species.

8. A barrier device as defined in claim 7, wherein the stem includes at least one coupling portion which has a coupling position in which it is aligned with the underside of a water meter cover and resists separation of the device from a water meter cover, and wherein the stem has a flexibility that enables the coupling portion to flex as the stem is passing through a tool access opening and to be returned to the coupling position when the coupling portion has passed through the tool access opening.

Importantly, the examiners did not challenge the applicant's position that claim 8 was generic, did not hold claim 8 withdrawn, but in fact acted on claim 8 in the original office action on the merits. Thus, undersigned asked examiner Keasel to review original claim 8, and consider the proposal undersigned had originally made to present language in claim 31 that would clearly make the claim generic.

Discussion and Request for Clarification.

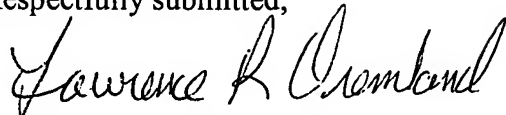
The only response received by the undersigned is the interview summary record, and because there is no outstanding office action for applicant to respond to (and in light of the time limit stated in the interview summary record) undersigned felt it appropriate to amplify the communications leading up to the interview summary record, and also request clarification of the position stated by the examiner in the interview summary record. Specifically, the interview summary record points to the language of claim 31 that undersigned believes is substantively similar to the language of claim 8 that is boldfaced above, and notes that the examiner's never challenged applicant's statement

that claim 8 was generic, and in fact acted on claim 8 (see e.g. paragraphs 6 and 9 of office action dated Nov 3, 2006, and particularly the manner in which the language of claim 8 that is boldfaced above was addressed). Moreover, the interview summary record states that all claims that are held as not being directed to the non elected species are withdrawn in accordance with 37 CFR 1.142(b), but that is different from the statement of examiner Price that claims were being simultaneously held as withdrawn and also canceled, as directed to a non elected species. Moreover, it is not clear to the undersigned as to whether the patent and trademark office intends to take such an action (and if so undersigned cannot find support for such an action in 37 CFR 1.142) or whether the patent and trademark office intends to issue a further office action that offers the applicant an opportunity to challenge the holding of withdrawal of claims 31 and 32, if applicant feels that is appropriate. Finally, there is nothing in the interview summary record as to how the examiners propose to handle the issues discussed above with respect to claim 29, and clarification of that issue is respectfully requested.

Thus, clarification of the position of the patent and trademark office, and a statement of how the patent and trademark office intends to proceed in this case, going forward is respectfully requested.

In the event the examiners feels a further telephone discussion would be useful in moving prosecution of this case forward, the examiners are respectfully requested to contact the undersigned at 520-747-0999.

Respectfully submitted,

A handwritten signature in cursive script, reading "Lawrence R. Oremland".

Lawrence R. Oremland
Reg. No. 27,046
Attorney for Applicant